



STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION
ALBANY, N.Y. 12232
www.nysdot.gov

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November 18, 2008

Mr. William Plumpton
Gannett Fleming, Inc.
P.O. Box 67100
Harrisburg, PA 17106-7100

RE: Finance Docket No. 35141 – Environmental Comments
US Rail Corp. – Construction and Operation Exemption
Brookhaven Rail Terminal
Town of Brookhaven, Suffolk County

Dear Mr. Plumpton;

The New York State Department of Transportation (NYSDOT) appreciates the opportunity to participate in the scoping process for the subject project. As noted in our formal filings in this proceeding with the Board, NYSDOT believes that the proposed Brookhaven Rail Terminal has the potential for considerable transportation, economic and environmental benefits, but that an appropriate environmental review must take place prior to construction of the facility. NYSDOT has identified the following issues to be addressed in such an analysis:

TRANSPORTATION IMPACTS:

The Environmental Analysis performed for the Brookhaven Rail Terminal should address the transportation impacts associated with the project. These include potential impacts to (1) commuter rail operations of the Long Island Rail Road, (2) freight operations of the New York & Atlantic Railway, (3) local highway impacts associated with trip generation from the Brookhaven Rail Terminal, and (4) regional highway impacts which may result from the diversion of freight from truck to rail. The analysis should also identify and consider any potential impacts to public transit (bus) and non-motorized transportation (bicycles & pedestrians).

SOCIAL IMPACTS:

The Environmental Analysis should document the project's consistency with local land use and zoning requirements. If the project is not consistent with local land use plans, the analysis should consider the project's impact on surrounding land use and development patterns.

ECONOMIC IMPACTS:

The Environmental Analysis should document the project's effects on local employment and tax base.

NYSDOT notes that the Brookhaven Rail Terminal may be eligible for a 10 year exemption from real property taxes pursuant to New York State Real Property Tax Law, Section 489-d(3-a). Whenever a railroad company makes any improvements, enhancements, or upgrades to any existing railroad real property in order to improve freight service or to provide improved or new passenger service, the cost of such project shall not be included in the calculation of any subsequent railroad ceilings for a period of 10 years from the date of completion of such project; provided that such project's improvements, enhancements, or upgrades were made pursuant to a capital project proposal approved by the Commissioner of the Department of Transportation.

In order to be eligible for this program, the project must be a construction project which modifies railroad facilities to substantially improve the efficiency, capacity, or safety of railroad freight or passenger transportation in one or more of the following manners:

- (i) a substantial enhancement in rail freight or passenger transportation performance, such as upgrading the class of the railroad track as track classes are defined in the track safety standards of the United States department of transportation;
- (ii) the construction of significant new facilities for rail freight or passenger transportation, such as the construction of new railroad lines, additional tracks along existing lines, sidings, structures, yards, stations, signal systems or switching facilities, and intermodal facilities, including, but not limited to, automotive, bulk transfer, trailer on flatcar, container on flatcar, and reload facilities; and
- (iii) major renovations to or expansions of components of railroad infrastructure, such as the reconstruction of bridges or the increase in bridge capacity, the expansion of railroad yards, or the substantial improvement of the technology or safety of signal systems.

ENVIRONMENTAL IMPACTS:

Victoria Rutson's letter of October 14th provides a comprehensive list of environmental issues to be addressed by the Board's SEA. NYSDOT suggests a few minor changes to the scope of these reviews as follows:

Noise

The noise item should be changed to: "*Noise analysis for highway and rail traffic as well as construction noise.*" Further, rather than just "sensitive" receptors, all developed receptors should be considered.

Water / Ecology

The analysis of impacts to Biological resources should be expanded to read "Biological resources, including threatened or endangered species *and invasive species management.*"

INDIRECT AND CUMULATIVE IMPACTS:

NYSDOT is advancing a project to construct a new intermodal rail terminal in the Town of Islip, Suffolk County (NYSDOT PIN 0339.12 – Long Island Truck-Rail Intermodal Terminal). The analysis of the Brookhaven Rail Terminal should assess the cumulative impact of these two facilities. The Draft Environmental Impact Statement prepared by NYSDOT and the Federal Highway Administration (FHWA) under the National Environmental Protection Act (NEPA) and New York's State Environmental Quality Review Act (SEQR) for the Long Island Truck-Rail Intermodal Terminal can be found at:

<https://www.nysdot.gov/portal/page/portal/regional-offices/region10/projects/long-island-intermodal/draft-eis>

NYSDOT received a great deal of public response to the DEIS and is in the process of addressing the numerous comments received.

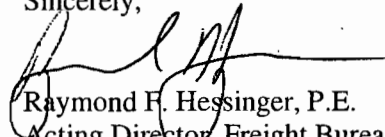
NYSDOT Highway Work Permits

The preliminary site plan for the Brookhaven Rail Terminal available to NYSDOT depicts a driveway access to Patchague-Yaphank Road. Construction of or modification to driveway entrances to state highways, involving work on the highway right-of-way, may only be performed pursuant to a Highway Work Permit issued by NYSDOT. Therefore, we request that NYSDOT be included as a Cooperating / Involved Agency in the Board's review of the project under NEPA to ensure the environmental documentation will satisfy NYSDOT's obligations under New York's State Environmental Quality Review Act (SEQR).

Further information on NYSDOT's Highway Work Permit process can be found at:
<https://www.nysdot.gov/divisions/operating/oom/transportation-systems/traffic-operations-section/highway-permits>

If you have any questions or need further information, please feel free to contact me at (518) 457-8075 or via email at rhessinger@dot.state.ny.us.

Sincerely,


Raymond F. Hessinger, P.E.
Acting Director, Freight Bureau

cc: Troy Brady, Surface Transportation Board, Section of Environmental Analysis ✓
Mary Ivey, Director, NYSDOT Office of Environment
Wayne Ugolik, Regional Planning & Program Manager, NYSDOT Region 10